THE KANZAS NEWS:

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BY P. B. PLUMB.
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THE KANZAS NEWS.

"THE PEOPLE ALWAYS CONQUER."

BY P. B. PLUMB. EMPORIA, KANZAS, OCTOBER 3, 1857. VOL. 1—NO. 14.

The Kanzas News.

SATURDAY.....OCTOBER 3, 1857.

[ORIGINAL!]

PROCLAMATION No. 3.

"Isothermal Equilibrium" Rampant.

Read! Reflect!! Ponder!!!

To the People of Kanzas:

The first Monday in October, 1857, the day assigned by law for the election, by the people of this Territory, of a Delegate to the Congress of the United States, both branches of the Territorial Legislature, and various county officers. As the Governor of Kanzs, numerous and urgent calls have been made upon me by various public meetings and committees, by some of the Judges of Elections, and also by many citizens, to communicate my views in relation to the qualifications of voters at that election, as also in regard to the Legislative Apportionment, and the establishment of voting precincts.

As to the apportionment, the Territorial election law of the 20th of February, 1857, requires it to be made upon the census provided to be taken under the Territorial Convention act of the 19th of February, 1857. The returns were made under that census, and the apportionment for that Convention fixed by the acting Governor, long before my arrival in this Territory; and, of course, over that matter I have no control whatever. Whilst it was a cause of deep regret to him, as well as to myself, that the census and registry were so incomplete in many counties, and that in fifteen counties organized as election districts under that law, and entitled to vote for delegates to the convention, there was neither census nor registry, and therefore, that they could not participate in any manner in the choice of delegates on that most important occasion, yet no power to remedy the evil was vested by law, either in him or me. The only remedy rests with the convention itself, by submitting, if they deem best, the Constitution for ratification or rejection to the vote of the people, under such just and reasonable qualifications as they may prescribe. That they would pursue this course I have never doubted, and although I have no right whatever to interfere in that question, yet, when my individual opinion was asked on this subject by members of the convention and others, I have always indicated a previous residence of three or six months prior to the vote upon the adoption of the Constitution, as most just and reasonable, a period of three months being prescribed by the Convention law itself as the prior residence required in voting for delegates to the Convention, and six months being designated by the Territorial election law as the previous residence required in voting for members of the Territorial Legislature. Either of these qualifications, in my opinion, would have embraced the great body of the *bona fide* settlers who might be here *this Fall*, inasmuch as the Convention would probably not terminate their labors and submit the Constitution until some time in November, and inasmuch as three or six months would probably be granted by them as an interval between the date of submission and the vote upon the Constitution. I repeat, however, the opinion always heretofore expressed by me, that this is a matter which belongs exclusively to the convention, over which I have no power, except, in the language of the Kanzas-Nebraska act, to "take care that the laws be faithfully excuted," including that organic act itself, and left at liberty as a citizen to take such a course as, in my judgment, would be most consonant with the principles of justice, of the Kanzas and Nebraska bill, and of the Constitution of the United States, in any contingency.

The apportionment of members of both branches of the Legislature, is based, as I have stated, on the census taken under the convention act of the 19th of February, 1857. My power to make the apportionment expired on the 31st of May last, leaving me but three days, exclusive of Sunday, to perform that act, after my arrival in this Territory. The Territorial laws of 1857 had never been printed. They were then in the course of publication at St. Louis, Missouri, and no copy reached here until the middle of June, long after my power over the subject had expired. The existence of this apportionment law was wholly unknown to the Secretary of State, to the Probate Judge of this county, or to any other person within my knowledge, and the printed copies, as I have stated, did not reach here until the middle of June. Of course it was impossible for me to perform the duty prescribed in that act, and, to guard against the contingency of those laws not reaching here before the first of June, the duty *from* and after that date, was devolved by law upon the Speaker of the House and the President of the Council. That duty was performed by the officers designated by the law, and, I have no doubt, in good faith, although I was never consulted by them on the subject. The law prohibited them from apportioning members to counties not embraced in the census under the convention law, and I know it to be a matter of complaint by both parties, that the districts are arranged so as to defeat their respective candidates. That the districts were arranged by these gentlemen, as charged by their opponents, with a view to bring voters from the State of Missouri into the adjacent counties of Kanzas, to control the election, I have the most solemn assurances from the most authentic sources of intelligence in that State, is wholly unfounded in fact.—That the census or registry was not made in fifteen counties of Kanzas, is owing to the neglect of the local officers of those counties to perform their duties, many of whom have excused themselves, on the allegation that no means were provided and no public money applicable to the expenses of taking the census and making the registry and that they were unable or unwilling to make the necessary advances themselves. However this may be, I have ever regarded it as a deplorable circumstance that these counties could not participate in the election of delegates to the Convention, but I feel confident that no such result was anticipated by the Territorial Legislature.

Although none of those fifteen counties could vote for delegate to the convention—(the remedy for which lies with the convention itself,)—and although no members have been or could be apportioned them for the Territorial Legislature, yet the Speaker of the House and the President of the Council, in conformity with the duty prescribed by law, have attached them to other legislative districts, so that they can vote for members of the Territorial Legislature. It is certainly a great calamity that these counties are thus deprived of their due weight in apportionment of members for the Territorial Legislature, yet they can vote for the members in the districts to which they are attached, and the only result is to give too many members of that body to some counties in the apportionment, according to population, and not an absolute denial of the right of suffrage. This result was not intended by the Territorial Legislature, and could not be prevented by the officers by whom the apportionment was made. There was no intention on the part of the Territorial authorities to disfranchise these counties. But this has arisen from accidental causes, over which I have no authority to exercise any control whatever, and I could give no legal efficacy to any vote that was not legal in itself.

It is hoped that the good citizens of these counties will vote to the extent permitted them by law, looking to an early period for the remedies for all these grievances, and that we shall have no revolutionary outbreak or violence at the election, which would be fraught with incalculable evil and attended with no possible good.

It will be observed that the apportionment has no effect whatever upon the vote for Delegate for Congress, or for county officers; in regard to both of which, the counties excluded from the apportionment for the Territorial Legislature have the same rights and influence, in proportion to their votes, as the people of any of the other counties of Kanzas.

In relation to precincts, which I am asked to establish, the act of the Territorial Legislature of 1855, regulates that subject in the fourth and fifth sections. The power is there given to the county officers to establish the precincts and select the judges of election, but there is a liberal provision in the law to meet any contingency. The fourth and fifth sections of the act are in the following words:

"SEC. 4. Every county that now is, or that may hereafter be, established, shall compose an election district, and all elections shall be held at the court house of such county, where one has been erected. If there be no court house, then it shall be the duty of the county commissioners to name a house in such county where the election shall be held; and if such commissioners fail to name such house twenty days before the election, it shall be the duty of the sheriff to name such house. In either of the last two cases, the sheriff shall give notice of the place of holding the election by written advertisements, set up in at least six public places in such county, or by advertisement in some newspaper published in such county, at least ten days before the day of the election: *Provided*, that the county commissioners may, from time to time establish such additional election precincts as may seem to them necessary or proper; *provided further, however*, that in no case shall more than one precinct be established in any one municipal township.

"SEC. 5. The county commissioners shall appoint the judges of election, in each county or voting precinct, at least ten days before the election at which they are to act; and if, at the hour for the opening of the polls, such judges are not present, then the voters assembled shall have power to elect others to fill the vacancy or vacancies thus occasioned. Said judges shall, before they enter on the discharge of their duties, take the following oath or affirmation, to be administered by one of their own body, by the sheriff, or by any officer authorized to administer oaths: I do swear (or affirm) that I will impartially discharge the duties of judge of the present election according to law and the best of my ability."

As to the judges of election, then, there can be no difficulty under this law, the power being vested in the people at the several precincts, in case the county officers fail to perform their duty; and if there be no precincts, then the election can only be held at the seat of justice provided by law for each county. It has been suggested that this power is given to me under the convention law of the 19th of June, 1857, to establish precincts. It is true that very large and comprehensive powers are given to the Governor of the Territory by that law, to which I shall have occasion hereafter to refer, and which seem to have escaped public attention; but those powers are especially confined to my action under that law, and confer no authority in this respect, in regard to the October election. With me, this is a matter of most sincere regret, inasmuch as it is now, and always has been, my most anxious desire to see a full and fair election held in October next, and to contribute to this result to the extent of all the authority devolved upon me by law. By the act of Congress, however, of the 30th of May, 1854, organising this Territory, and which is still in full force, in that respect, on this subject, it is declared in the 33rd section, that, "the person having the greatest number of votes, shall be declared by the Governor to be duly elected, and a certificate thereof shall be given accordingly." As regards the Territorial Legislature, the certificate is to be given by the Secretary of State, who is to count the votes in the presence of the Governor; and in relation to the local officers, this duty, in case of contest, is devolved upon the Courts.

In view of my duties in connection with this law, my attention has been called to the qualification of voters under the law. But even here the prior duty is devolved upon the judges of election, and I might not have felt called upon to give any opinion upon the subject, but for circumstances of a most grave and serious character, to which I shall now refer. The Territory is threatened with a violent seizure of the polls at the October election, leading necessarily to a collision and civil war. This would be a most disastrous circumstance, requiring imperatively the employment of the troops under my control, to avert scenes disgraceful alike to this Territory and to our country, and which every good citizen could not but deplore. If, then, under these circumstances, the expression of my opinions could prevent, as in May and June last, the occurrence of such a catastrophe, I regard it as a solemn duty to make that expression, rather than resort to the employment of force to be followed by scenes of anarchy and bloodshed.

The two questions presented for my consideration are,

First: Can those who were qualified under the organic act to vote at the first election in this Territory, vote also in October next independent of any restrictions imposed by any act of the Territorial Legislature?

The 22d and 23d sections of the organic law, relating to this subject, are in the following words:

"SEC. 22. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the Governor and legislative assembly. The legislative assembly shall consist of council and house of representatives. The council shall consist of thirteen members, having the qualification of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of twenty-six members, possessing the qualifications as prescribed for members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, in proportion to the increase of qualified voters: *Provided*, that the whole number shall never exceed thirty-nine. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the council and representatives, giving each section of the territory representation in the ratio of qualified voters, as nearly as may be. And the members of the council and house of representatives shall reside in, and be inhabitants of, the district, or county or counties, for which they may be elected, respectively. Previous to the election, the Governor shall cause a census, or enumeration of the inhabitants and qualified voters of the several counties and districts in the territory, to be taken by such persons and in such mode as the Governor shall designate and appoint; and the person so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the person who shall superintend such election and the returns thereof, as the Governor shall appoint and direct; and he shall at the same time declare the numbers of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts for members of the council, shall be declared by the Governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives, shall be declared by the Governor to be duly elected members of said house: *Provided*, that in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the Governor shall order a new election; and the persons thus elected to the legislative assembly, shall meet at such place and on such day as the Governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts, to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, that no session in any one year, shall exceed the term of forty days except the first session, which may continue sixty days.

"SEC. 23. *And be it further enacted*, That every free white inhabitant above the age of twenty-one years, who shall be an actual resident of said Territory, and shall possess the qualifications hereinafter described, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualification of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Legislative Assembly: *Provided*, that the right of suffrage and of holding office shall be exercised only by citizens of the United States, and those who have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States, and the provisions of this act; *And provided further*, that no officer, soldier, seaman or marine, or other person in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote or hold office in said Territory, by reason of being on service therein."

It will be perceived that the act of Congress is clear and explicit on this subject. It prescribes the qualifications only of those who "shall be entitled to vote at the *first election*, and shall be eligible to any office within the said Territory; but the qualification of voters and of holding office, *at all subsequent elections*, shall be such as *shall be prescribed by the Legislative Assembly*." The provisos have no application whatever to the subject, inasmuch as they only prohibit the Legislature from permitting persons to vote who are neither native nor naturalized citizens, nor have declared on oath their intention to become citizens, and certain officers, soldiers of the army, etc.

Now, then, it is clear, *first*, that as regards all elections but the first, the qualifications are not prescribed by the act of Congress, and, *second*, the qualifications with the restrictions before mentioned for all subsequent elections, are to be designated exclusively by the Territorial Legislature.

It is certain, then, that the question now raised as regards the pretended right of persons to vote who possess the requisite qualifications, under the act of Congress, for voting at the first election, but are excluded by subsequent Territorial legislation now in force, has no foundation whatever in law; and such votes would be wholly illegal. Under these circumstances I trust that no one will attempt to vote who is excluded by the Territorial law, and that if such illegal attempt is made, such a clear violation of the act of Congress and of the laws of this Territory will be arrested and prevented by the judges of the election.

The second question is:

Will voters at the elections in October, who possess all the qualifications provided by the Territorial act of the 20th of February, 1857, which is the last act on this subject, be also required to possess other and different qualifications contained in the preceding Territorial enactments, or is the last law the sole rule of action on this subject? This last act is the general election law, providing for a new and entirely distinct apportionment of members for both branches of the Territorial Legislature, as also the qualifications of voters at that and all succeeding elections, and is entitled "An act to define and establish the Council and Representative Districts for the second Legislative Assembly and for other purposes." The first section designates by name the several counties of Kanzas which are to constitute the several Council districts; the second section designates by name the several counties of Kanzas which are to constitute the respective representative districts; the third section apportions members among the several representative districts according to the census provided for in the Convention law; the fourth section apportions in the same manner the members among the several Council districts; the fifth and last section is in these words:

"SEC. 5. Every *bona fide* inhabitant of the Territory of Kanzas, being a citizen of the United States, over the age of twenty-one years, who shall have resided six months in said Territary before the next general election for members of the Council and House of Representatives, and no other person whatever shall be entitled to vote at any general election hereafter to be held in this Territory: *Provided, however*, that nothing in this act contained shall be considered to apply to or effect in any manner the provisions of an act, entitled "An act to provide for taking the census and election for delegates to a convention.

This act to take effect and be in force from and after its passage."

The language of this section is clear and explicit. It is an act prescribing the qualifications, and all the qualifications of voters at all future elections. The law is perfect and complete in itself, without any reference whatever to preceding enactments. The language is free from controversy. "*Every bona fide inhabitant*," etc., "*shall be entitled to vote*," etc. The words are imperative. It is the language of command from the proper authority, and no one has any right to interpolate restrictions contained in preceding enactments. It is a well-settled principle of law, as well as of common sense, that when any subsequent statute proceeds to regulate an entire subject in general and comprehensive language, it is of full force and effect in and of itself, and no restriction or addition can be made to its provisions by reference to any preceding enactments. In such a case there can neither be addition nor subtraction, and the number of qualified voters can neither be augmented, by adding to them those who were permitted to vote by preceding laws, nor be lessened by subtracting those who were restricted from the right of suffrage by previous enactments. The words "*every citizen*," etc., and "*no other*" *shall vote*, include all who are described in the act, and exclude all others. Besides, the right of suffrage is the most sacred known to the American people. It is the basis upon which repose all their institutions. It is a right highly favored in our law, and, in all such cases, to deprive any one of this right, the words must be clear and unambiguous. But, in this case there is no ambiguity, and, independent of the fact that this act, as regards elections and the qualifications of voters, is an act complete in itself, and prescribing all the provisions applicable to this subject, any interpretation by which a restriction as regards the right of voting, contained in a preceding law, should be superadded to those required in this act, would create a direct and positive repugnance to its clear and explicit language, and, therefore, would be most clearly repealed, by virtue of that universal principle of jurisprudence that, when two statutes contain provisions which are repugnant, repellant or contradictory, either by way of addition or subtraction, the last statute must prevail.

Now, let us see if there would not be a direct repugnancy in this case, under the construction contended for by those who assert that, although the payment of a Territorial tax is not among the qualifications of voters under the act of 1857, yet, that it is a qualification under the act of 1855, and therefore still in force. Let us place them in opposite columns:

Act of 1857 provides:	*The Act of 1857, as now construed, would read as follows:*
"EVERY *bona fide* inhabitant of the Territory of Kanzas, being a citizen of the United States, over the age of 21 years, and who shall have resided 6 months in said Territory before the next general election for members of the Council and House of Representatives, and NO OTHER person whatsoever SHALL be entitled to vote at any general election hereafter to be held in this Territory."	"EVERY *bona fide* inhabitant of the Territory of Kanzas, being a citizen of the United States, over the age of 21 years, and who shall have resided 6 months in said Territory before the next general election for members of the Council and House of Representatives, and NO OTHER person whatsoever SHALL be entitled to vote at any general election hereafter to be held in this Territory," *but no such citizen shall be permitted to vote unless he has first paid a Territorial tax.*

Is it not clear that the two provisions would be directly repugnant, by the addition to the act of 1857 of a proviso and restriction not contained in that act, but in a previous law. The words of the act of 1857 are general: "*every citizen*," etc., *shall* be entitled to vote on a residence of six months. This language gives the right to vote, in clear and positive terms, to *every citizen*, etc., who has been a resident for the term prescribed by law. "*Every citizen*" are general and comprehensive terms, and they cannot be restricted by other words not contained in this law. By the 11th section of the act of 1855, no previous residence is required as a qualification for a voter, but the payment of a Territorial tax is made a prerequisite. Now, it is clear, that if, when prescribing a previous residence of six months, in using the general and comprehensive language, "*every citizen*," etc., the Legislature of 1857, besides that residence for the first time prescribed by law, had intended in addition to require the payment of a Territorial tax, they would have said so; and not having said so, such words can be interpolated neither by judicial nor executive construction. In fact it is not a case of construction at all, but of using words which the Legislature have not used, and of making provisos and restrictions for them, which they have not made, and of excluding voters from the polls, whom they have not excluded. Besides, this is no new question. It has occurred repeatedly in several States and Territories of this Union, and, as a principle of universal adoption, under such laws, it is well settled, without a single exception to the rule, that where one State Constitution regulating the right of suffrage prescribes certain qualifications of voters, it is complete in and of itself, and is universally regarded as repugnant to so much of any previous constitution, which either adds to or subtracts from such such qualification. And the same rule prevails in relation to State and Territorial laws. This is the great American rule of interpretation on this subject, amounting, from long established and universal usage, to the force of law.

If there could have been any possible doubt on this subject, it is removed by the provisions of the Territorial Convention law, passed on the day preceding that on which was enacted the election law, and referred to and made the basis of many of the provisions of the latter. That Convention law prescribes a previous residence of three months and a registry, as qualification for voters, but is just as silent as the Territorial election law on the subject of the payment of a tax, and yet no one has ever pretended that the payment of any tax constitutes a necessary qualification for a voter for delegates to that convention. No such payment of a tax was ever exacted, and was rarely if ever made. And such a construction as is now contended for, that because there was no direct repeal of the tax qualification, therefore it still existed, would render illegal the election of nearly every member of the Consititutional Convention, and impair the validity of all their acts. The election law of 1857 imposing the tax qualification was general. It applied to *all* subsequent elections, to "*every inhabitant* of this Territory and of the county or district in which he offers to *vote*," and to "all *electiee* officers." It was as general and comprehensive in its application to *every election* which could take place under any Territorial law, as the Legislature could make it, and would apply the restriction of the pre-payment of a Territorial tax in voting for delegates to the Convention, just as much as in voting for members of the Territorial Legislature in October; upon this alleged principle, that restrictions of qualification in preceding laws are not repealed by general provisions in a subsequent statute prescribing for subsquent elections the qualifications of voters. The Convention law required a three months' previous residence and registry as a qualification of voters, but was silent, like the election law of 1857, as regards the prepayment of any tax; and if such a prepayment by force of preceding enactments applies as a qualification for a voter for the Territorial Legislature in October, then it would just as clearly follow that, inasmuch as the Convention act was equally silent as to the payment of a tax, the voters for delegates to that Convention, besides the three months' residence and registry, must have paid a tax also. But the truth is, whilst the tax remains, the qualification applies no more to the election in October, than it does to the election of the delegates to the Convention, because it was dropped in both acts, and because we have no right to insert a most important provision that is thus omitted by the Legislature, and because it is a settled rule in interpreting statutes that, if the Legislature had intended in either case, in prescribing the qualifications, and all the qualifications of voters, to superadd one that was inserted in a preceding law, they would have repeated the restriction in the subsequent statute. How easy was it for the Legislature, in prescribing the qualification of voters under the Convention or election law, if they intended, in addition to the qualifications named in these laws, to require the pre-payment of a tax, to have said so, and not left it to others to interpolate words which they had excluded. They have not said so, and that is enough. On this subject I have never entertained any doubt, and never supposed there could be any question. And I might have declined the expression of any opinion on either of these points, but for the certain knowledge of the fact, communicated to me from almost every quarter of the Territory, and from all parties, that these conflicting constructions of the law, if not settled, will certainly produce collision at the polls, and, most probably, a disastrous civil war and revolution. I claim no authority to instruct the judges of election, by virtue of my official power, how they shall decide, but I give my opinion, as others have given theirs, and with the same sincerity, in the hope that it may tend somewhat to prevent the disasters with which we are threatened, growing out of these conflicting opinions, and that it may render unnecessary a resort to the military force, subject to my orders, to preserve the peace of the Territory. That military force which is now already here, or daily arriving, is amply sufficient to preserve the peace of Kanzas; but it is my sincere hope, that the mere presence of this force, competent as it is to suppress insurrection or rebellion and maintain the authority of the law, will render any collision unnecessary.

On the 19th of August last I communicated to the President, through the Secretary of State, my views on this subject, together with copies of the several Territorial laws, and asked the aid of the President and his Cabinet to sustain me, by the moral force of their opinion, in preventing a collision and civil war in this Territory, by stating if such should be the fact, their concurrence with me in these views. In reply to this communication, in a dispatch from the Secretary of State to me, under date of the 2d of September, 1857, after remarking most justly, as I always contended, that I could issue no authoritative mandate to the judges of election on this subject, or control their decision, he says:

"The Territory of Kanzas is in a peculiar condition. By your statement, and possessing, as you do, the best means of information, your views, in the opinion of the President, are entitled to great weight—it is in a state of incipient rebellion with an organized military force, prepared to resist the authority of the United States.

"It may, therefore, become necessary to use the troops placed at your disposal, not only to aid as a *posse comitatus* in executing the laws, but also to suppress an insurrection. Surely under these circumstances, if the expression of an opinion in advance of his action, and it may be instead of it, which the President honestly entertains, will have a direct effort in preventing a civil war in Kanzas, he cannot be justly censured for attempting, by such an expression of opinion, to avert the calamitous result.

"The danger you anticipate arises, as you observe, from the apprehension of a portion of the citizens of Kanzas that they will be excluded from the privilege of voting because they have not paid a Territorial tax. Now, the President, as well as every member of his Cabinet, concurs in opinion with you that the payment of such tax is not required as a qualification to vote. He and they entertain not a doubt that the 5th section of the act of February 20th, 1857, is complete in itself and prescribes all the qualifications required of a voter, and among these the payment of a Territorial tax is not included. They are also firmly convinced that no person whatever not possessing these qualifications, notwithstanding they may possess the qualifications prescribed for voters by the organic act of Congress of May 30th, 1854, has any just claim to the elective franchise."

It will be observed, then, that in view of the deplorable condition of Kanzas for the last three years, and the civil war which has so long raged in this Territory, and the imminent danger of a renewal of that conflict, growing out of conflicting views as to the qualifications of voters at the ensuing election, the President and all his Cabinet have deemed the occasion sufficiently solemn and important to express their full, unanimous and entire concurrence in the views as to the qualifications of electors at the October election on those points set forth by me in this address, and previously communicated by me to the Secretary of State.

It is obvious that the Territorial Government of Kanzas must be maintained, either by a superior physical force, or, as in all other States and Territories, by the majority of qualified voters at the election.

I never contemplated the use of the military force but in execution of the laws; to protect the citizens in the exercise of their legal rights; as a *posse comitatus* to arrest offenders, where the civil authorities might prove incompetent without such aid; and where the law authorized military power to suppress insurrection or rebellion. Physical force and the bayonet constitute the real power in nearly all monarchies and despotic governments; but here it is the will of the majority of the people qualified to vote upon the Constitution and under the laws, which is to govern; and the sooner all such questions are decided by a full and fair vote of the qualified electors at the polls, the better; and then, and not till then, shall we have peace and repose in Kanzas. Unless force is to be substituted for the elective franchise; unless despotic and monarchial principles are making here insensible progress, sooner or later the question must thus be decided; and the sooner the better, not only for the true interests of this Territory; but for the security of the Union and the cause of self-government, here and throughout the world.

The eyes of our country and the world, are now directed with intense interest to the coming election in Kanzas in October next. Whether the people of this Territory are, indeed, capable of self-government; whether the scenes which have disgraced Kanzas and our country for the last three years, are to be renewed indefinitely; whether violence, injustice or insurrection on one or both sides are, for the moment, and for the moment only, to decide the question; or whether our political differences are to be settled here, as in all other States and Territories, (under the provisions of our organic law) by the full, free and fair exercise of the elective franchise; are the momentous questions to which you must all now soon answer. The test oath is expressly repealed as a qualification for voters by an act of the Teritorial Legislature of the 17th of Februarry, 1857.

The people of Kanzas have now, therefore, an opportunity, in conformity with the Constitution of the United States, the organic act of Congress, and the laws of this Territory; to decide by the elective franchise, the choice of their Delegate to Congress, their Territorial Legislature, and all their county officers.

The troops at my disposal, which are fully competent to the task, will at the request of citizens of both parties, be stationed at the points where violence has been threatened, or anticipated, not for the purpose of overawing the people, or of interfering, in any way, with the elections, or of influencing them in any respect whatever, but, by their mere presence, guarding the polls against any attempt at insurrection or violence, from the mere knowledge of the fact that it can and will be suppressed, but, if necessary, also to protect and secure by lawful means, all the just rights of the citizen in exercising the elective franchise under the decision of the proper authorities, and to act as a *posse comitatus* for the arrest of offenders. I should have greatly preferred, as expressed in my letter of acceptance of the office of Governor of this Territory, never to have been required to call out the troops, even as a precautionary measure.—As it is, not a drop of blood has been shed; and insurrection has been suppressed, until it recently appeared in a compulsory tax law by the insurgent government at Lawrence, and in conflagration of dwellings and expulsion of peaceable citizens in its vicinage, after it was known the troops were ordered to Utah, and when it was falsely supposed that they would not be replaced by others. Indeed, if the revolutionary government of Lawrence had not been encountered by the immediate movement of troops there, it is now clear that similar insurrectionary local governments, based on my presumed acquiescence, would have been organized throughout Kanzas, in open defiance of the laws of Congress and this Territory, and rendered a peaceful settlement impossible. It will be remembered, that in open defiance of the laws of Congress, and of this Territory, and after the refusal of the so-called Topeka State Legislature to grant them a charter, they nevertheless organized a city government, clothed with all the usual powers—Legislative, Executive and Judicial. It will be recollected also, that after my proclamation of the 15th of July last, and the simultaneous movement of the troops there as a precautionary measure to maintain the authority of the Government, and arrest the spread of this insurrection throughout the Territory, they then professed through their organs, that what they had called a *Government*, and to which they had given all the powers of a Government, was a mere VOLUNTARY ASSOCIATION for the removal of nuisances from the streets &c.—But now, when it was erroneously believed by them that the troops would all be removed to Utah, and not replaced by others, they have thrown off the mask, and carried out their original insurrectionary purpose, by passing a compulsory tax law, both a poll and property tax, requiring its assessment and collection by the seizure and sale of property, and exacting by their charter from executive officers, who are to carry out these acts, AN OATH to perform these duties, the violation of which oath, if these duties are not performed, would be perjury. At the same time they seemed to have be-

[*Concluded on Fourth page.*]